HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.22286 of 2006

Dated:03.11.2006

Between:

Shiridi Krishna Educational Society.

…Petitioner

and

The Commissioner & Inspector General and others.

…Respondent

HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.22286 of 2006

ORDER:

The petitioner is Educational Society formed with an object of establishing Educational Institutions. The Society obtained lease of land admeasuring Ac.0.68¾ cents in Survey No.452/2 (out of Acs.2.30 cents) situated at Narendrapuram Village of Rajulupalem Gram Panchayat, P.Gannavaram Mandal in East Godavari District. The lease deed for a period of 99 years was registered with the third respondent. The petitioner constructed school building statedly twenty years ago. The lessor, Smt.Ayyagari Lakshmi Devi, W/o.Suryanarayana Murthy, executed a gift deed on 18.03.2004 donating the land which was initially given on lease in favour of the petitioner. The gift deed was presented before the third respondent for registration, duly paying the stamp duty of Rs.15,000/-. By a communication dated 07.08.2006 the petitioner was asked to pay the stamp duty on the land as well as the buildings erected thereon under Article 29 of Schedule 1-A of the Indian Stamp Act, 1899 (for short 'the Act'). Aggrieved by the same, the petitioner filed the instant Writ Petition.

After hearing the learned Counsel for the petitioner and the learned Assistant Government Pleader for Revenue (General-A) and

after going through the material placed before the Court, the following would emerge. After receiving the gift deed presented by the petitioner, the third respondent sought clarification from the second respondent vide his letter dated 17.05.2005. The latter then addressed the first respondent by letter dated 18.03.2006 seeking clarification. In the said letter, the second respondent opined that the value of the site may be taken for adopting stamp duty and registration fees as the building was constructed by the lessee pursuant to the lease deed. Be that as it is, subsequently, the second respondent by another communication dated 07.08.2006 informed the third respondent that stamp duty should be collected on the market value of the land as well as the building. This only shows that the second respondent treated the letter of the third respondent dated 17.05.2005 as a reference under Section 47-A of the Act and came to the conclusion that the stamp duty has to be levied on the land and the buildings. Such determination purportedly under Section 47-A(2) of the Act was done without notice to the petitioner, which is mandatory under Section 47-A(2) of the Act. Therefore, the said determination cannot be sustained.

In the above background, the matter is remitted to the second respondent with a direction to issue notice to the petitioner under Section 47-A(2) of the Act and determine the market value in accordance with the material available or that may be produced by the petitioner. If the petitioner is still aggrieved after such determination, its remedy is to approach the jurisdictional Court of the Senior Civil Judge under Section 47-A(4) and (5) of the Act. The District Registrar may complete this exercise within a period of two weeks from the date of receipt of a copy of this order.

The Writ Petition, with the above observations and directions, is accordingly disposed of. No costs.

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(V.V.S.RAO, J)

03.11.2006
vs